

Attorney Docket No.: 5540-1ACXCT2

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re: Continuation of Vandepopuliere et al.

Serial No.: 09/922,824

Group Art Unit: 1761

Filed: 6 August 2001

Examiner: A. Weier

For: METHOD OF CONTROLLING SALMONELLA IN SHELL EGGS

Date: April 1, 2003

Drawing Review Branch
Commissioner for Patents
Washington, DC 20231SUBMITTAL OF FORMAL DRAWINGS

Sir:

In response to the requirement for formal drawings as set forth in Paper No. 15 in the above application, there is enclosed herewith one set (2 sheets) of formal drawings. It is requested that these new drawings be substituted for the originally filed informal drawings. The Commissioner is hereby authorized to charge payment of the any fees associated with this communication or credit any overpayment to Deposit Account No. 50-0220.

Respectfully submitted,

Karen A. Magri
Registration No. 41,965

Customer No.




20792

PATENT TRADEMARK OFFICE

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to Drawing Review Branch, Commissioner for Patents, Washington, DC 20231, on April 1, 2003.


Sloan Hobbs

MAR. 9. 2004 4:56PM

MBS&S 919 854-1401

NO. 7959 P. 11/14



UNITED STATES PATENT AND TRADEMARK OFFICE

COPY

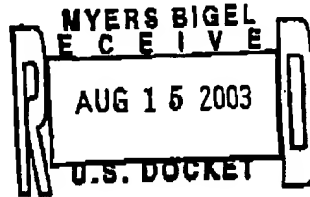
KAM

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/522,824	08/06/2001	Joseph M. Vendicopoliere	5540-1ACXCT2	9146

20792 7590 08/11/2003

MYERS BIGEL SIBLEY & SAJOVEC
PO BOX 37428
RALEIGH, NC 27627



EXAMINER

WEIER, ANTHONY J

ART UNIT PAPER NUMBER

1761

DATE MAILED: 08/11/2003

p #16

Please find below and/or attached an Office communication concerning this application or proceeding.



UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
 Address: COMMISSIONER OF PATENTS AND TRADEMARKS
 Washington, D.C. 20231

APPLICATION NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
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09/922,824

EXAMINER

ART UNIT	PAPER NUMBER
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DATE MAILED:

NOTICE OF ABANDONMENT

This application is abandoned in view of:

- ☐ Applicant's failure to timely file a proper response to the Office letter mailed on _____.
- ☐ A response (with a Certificate of Mailing or Transmission of _____) was received on _____, which is after the expiration of the period for response (including a total extension of time of _____ month(s)) which expired on _____.
- ☐ A proposed response was received on _____, but it does not constitute a proper response to the final rejection.
- (A proper response to a final rejection consists only of: a timely filed amendment which places the application in condition for allowance; a Notice of Appeal; or the filing of a continuing application under 37 CFR 1.62 (FWC).
- ☐ No response has been received.
- ☐ Applicant's failure to timely pay the required issue fee within the statutory period of three months from the mailing date of the Notice of Allowance.
- ☐ The issue fee (with a Certificate of Mailing or Transmission of _____) was received on _____.
- ☐ The submitted issue fee of \$_____ is insufficient. The issue fee required by 37 CFR 1.18 is \$_____.
- ☐ The issue fee has not been received.
- ☒ Applicant's failure to timely file new formal drawings as required in the Notice of Allowability.
- ☐ Proposed new formal drawings (with a Certificate of Mailing or Transmission of _____) were received on _____.
- ☐ The proposed new formal drawings filed _____ are not acceptable.
- ☒ No proposed new formal drawings have been received.
- ☐ The express abandonment under 37 CFR 1.62(g) in favor of the FWC application filed on _____.
- ☐ The letter of express abandonment which is signed by the attorney or agent of record, the assignee of the entire interest, or all of the applicants.
- ☐ The letter of express abandonment which is signed by an attorney or agent (acting in a representative capacity under 37 CFR 1.34(a) upon the filing of a continuing application.
- ☐ The decision by the Board of Patent Appeals and Interferences rendered on _____ and because the period for seeking court review of the decision has expired and there are no allowed claims.
- ☐ The reason(s) below:

ABANDONMENT
CONTACT PERSON IS:
TOM HAWKINS
305-8380

FORM PTO-1432 (REV. 10-95)

Respond to the Notice of Abandonment by one of the following:

Petition To Withdraw Holding of Abandonment (See MPEP 711.03(c) I) and 37 CFR § 1.181) No fee required

Where an applicant contends that the application is not in fact abandoned (e.g., there is disagreement as to the sufficiency of the reply, or as to controlling dates), a petition under 37 CFR § 1.181(a) requesting withdrawal of the holding of abandonment is the appropriate course of action. Any petition under 37 CFR § 1.181, to withdraw the holding of abandonment not filed within 2 months of the mail date of a Notice of Abandonment may be dismissed as untimely under 37 CFR § 1.181(f). In order for a petition to be granted, the evidence must be sufficient according to one of the following standards:

- 37 CFR § 1.8(b) Certificate of Mailing
- 37 CFR § 1.10 "Express Mail" mailing
- MPEP 503 Postcard Receipt as Prima Facie Evidence

Petition To Withdraw Holding Of Abandonment should be addressed as follows:

By mail: Commissioner For Patents, P.O. Box 1450, Mail Stop: Issue Fee, Alexandria, VA 22313-1450

By facsimile: 703-305-8755 or 703-305-4372

Petition To Withdraw Holding Of Abandonment Based On Failure To Receive Office Action (See MPEP 711.03(c) II). No fee required

Where an applicant contends that the original Notice of Allowance and Issue Fee Due was never received. If adequately supported, the Office may grant the petition and remail the Office action. The showing required establishing non-receipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the nonreceived Office would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.

Petition should be addressed to the Technology Center handling the application as follows:

By mail: Commissioner For Patents, P.O. Box 1450, Alexandria, VA 22313-1450
(Mark attention of a particular office or individual)

By facsimile: Technology Center numbers posted at <http://www.uspto.gov/september1/faxnotice.htm>

Petition To Revive An Abandoned Application (See MPEP 711.03(c) III)

Where there is no dispute as to whether an application is abandoned (e.g. the applicant's contentions merely involve the cause of abandonment) a petition under 37 CFR § 1.137 (a) unavoidable or (b) unintentionally (accompanied by the appropriate petition fee) is necessary to revive the abandoned application.

Petitions under 37 CFR § 1.137 should be addressed to the Office of Petitions as follows:

By mail: Commissioner For Patents, P.O. Box 1450, Alexandria, VA 22313-1450

By hand: Crystal Plaza 4, Rm. 3C23, 2201 Clark Place, Arlington, VA

By facsimile: 703-308-6916

Petition For Revival Of An Application For Patent Abandoned Unavoidably Under 37 CFR § 1.137(a) and Unintentionally Under 37 CFR 1.137(b), forms available at USPTO website - <http://www.uspto.gov>

Note: Abandonment takes place by operation of law for failure to reply to an Office action or timely pay the issue fee, not by operation of the mailing of a Notice of Abandonment.

Notice of Allowability

COPY

Application No.

09/22,824

Examiner

Anthony Weier

Applicant(s)

VANDEPOPULIERE ET AL

Art Unit

1761

A8-15

- The MAILING DATE of this communication appears on the cover sheet with the correspondence address-

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS. This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the transmittal filed 2/24/03.
2. ☒ The allowed claim(s) is/are 24-30.
3. ☐ The drawings filed on _____ are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).
- * Certified copies not received: _____
5. ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(s) (to a provisional application).
 - (a) ☐ The translation of the foreign language provisional application has been received.
6. ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application. THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

7. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.

FORMAL

8. ☒ CORRECTED DRAWINGS must be submitted.
 - (a) ☐ including changes required by the Notice of Draftperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No. _____
 - (b) ☐ including changes required by the proposed drawing correction filed _____, which has been approved by the Examiner.
 - (c) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No. _____

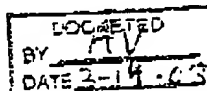
Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the top margin (not the back) of each sheet. The drawings should be filed as a separate paper with a transmittal letter addressed to the Official Draftsperson.

9. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|--|--|
| 1 <input type="checkbox"/> Notice of References Cited (PTO-892) | 2 <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3 <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | 4 <input type="checkbox"/> Interview Summary (PTO-413), Paper No. _____ |
| 5 <input type="checkbox"/> Information Disclosure Statements (PTO-1449), Paper No. _____ | 6 <input type="checkbox"/> Examiner's Amendment/Comment |
| 7 <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit of Biological Material | 8 <input type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9 <input type="checkbox"/> Other |

ANTHONY J. WEIER
PRIMARY EXAMINER



Note: The Terminal Disclaimer filed 11/4/02 has been entered in the case.

**RECEIVED
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MAR 09 2004

OFFICIAL

Attn: Examiner Weier

Certificate of Transmission under 37 CFR 1.8
Fax: (703) 872-9306

I hereby certify that this correspondence is being facsimile transmitted
to the United States Patent and Trademark Office.

on March 9, 2004.



Signature

Sarah Brunmeier

Typed or printed name of person signing

Attorney's Docket No. 5540-1ACXCT2

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re: Vandepopuliere et al.

Serial No.: 09/922,824

Filed: August 6, 2001

Examiner: A. Weier

For: *METHOD OF CONTROLLING
SALMONELLA IN SHELL EGGS*

Re-submission of:

1) **Copy of Second Petition to Withdraw Abandonment**

13 Pages + Cover

COPY

Drawing Review Branch
Assistant Commissioner for Patents
Washington, DC 20231

KAM/SADate: 4-2-03Doc. No. 5540-ACET 2Serial No. 09/923,924Inventor: Vandepoliers et al.

Sir: Kindly acknowledge receipt of the accompanying items listed below
by placing your receiving stamp hereon and return mailing:

<input type="checkbox"/> Application Transmittal and:	<input type="checkbox"/> Check 5
<input type="checkbox"/> Specification pages	<input type="checkbox"/> IDS & PTO-1449 & refs.
<input type="checkbox"/> No. of Claims	<input type="checkbox"/> Amendment & Amend. Transmittal
<input type="checkbox"/> Declaration & POA	<input type="checkbox"/> Preliminary Amendment
<input type="checkbox"/> Assignment and Fee	<input type="checkbox"/> Issue Fee
<input type="checkbox"/> Small Entity Statement	<input type="checkbox"/> Brief
<input checked="" type="checkbox"/> Formal Drawings/ <u>2</u> sheets	<input type="checkbox"/> Appeal
<input type="checkbox"/> Associate Power of Attorney	<input type="checkbox"/> Submittal of Priority Doc.
<input type="checkbox"/> Exp. Mail	<input checked="" type="checkbox"/> 1st Class Mail
<input checked="" type="checkbox"/> Other: <u>Submittal of Formal Drawings</u>	

Respectfully submitted,
MYERS BIGEL SIBLEY & SAJOVEC, P.A.
Attorneys for Applicant

